BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2021

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.19800 of 2020
and
W.M.P.(MD)No.16493 of 2020

M/s.Kartya Constructions Pvt.Ltd.,
Represented by its Director T.Sathiyamoorthy,
13A, Mariyappa Tower,
Yamuna Street, Housing Board Sector HIG,
Ellis Nagar, Madurai. ... Petitioner

-Vs-

1.The Assistant Commissioner (ST),
Chokkikulam Assessment Circle,
Commercial Taxes Building,
Madurai-20.

2.The Commissioner of State Taxes,
Ezhilagam, Chepauk, Chennai. ... Respondents

**PRAYER**: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to issue "C" forms under the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 to the petitioners for the purchase of High Speed Diesel from the suppliers in other States in view of the judgment dated 26.10.2018 passed by this Court in the case of M/s.Ramco Cements Ltd., & others in W.A.Nos.3403, 3413, 3414 and 2812 of 2019 for running the machinery for mining.

For Petitioner : Mr.S.Karunakar.
For Respondents : Mr.S.Dhayalan,
Government Advocate.

**ORDER**

Heard the learned counsel on either side. With the consent of learned counsel on either side, the Writ Petition is taken up for final disposal at the stage of admission itself.

2.The prayer made by the petitioner is opposed by the learned Government Advocate by placing reliance on the circular dated 05.09.2019 issued by the Additional Chief Secretary/Commissioner of Commerical Tax, Chennai.

3.I am of the view that reliance on the said circular is misplaced in view of the subsequent judicial pronouncement. As late as October 2020, a learned Judge of this Court considered the identical prayer in W.P.No.14510 of 2020. It cannot be in dispute that the case on hand is covered by the decision reported in ***2020 (3) TMI 450 (The Commissioner of Commercial Taxes, Chennai, The Additional Commissioner (CT) Vs. The Ramco Cements Ltd., and the State Tax Officer, The Joint Commissioner (CS) (Systems).*** The Hon'ble Division Bench held as follows:

> “39.Therefore, if a dealer has a right to sell as well the restricted six items under CST Act, one fails to understand as to how their right to purchase those goods at present time under the existing Registration Certificates can be taken away merely because they are not selling those good. If sale of the goods was the only criteria of registration under the CST Act, the consequent amendments would not have allowed concessional rate of tax for purchase of those six commodities for user in activities like Mining or Telecommunication Networks, where no such resale or use in manufacturing is involved. Therefore, such a right is equally available to other industries like Cement Industries and the same cannot be denied to them. That would result in an invidious classification in violation of Article 14 of the Constitution of India, which is neither envisaged nor is called for. Therefore, the contentions raised on behalf of the Revenue are not sustainable at all.
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> 40.Consequently, we are of the opinion that the Writ Appeals filed by the Revenue have no merits and deserve to be dismissed and respectfully agreeing with the view expressed by other High Courts and confirming the view of the learned Single Judge in the impugned Judgment in Appeal before us we dismiss the present Writ Appeals filed by the State.
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> 41.The Appellant State and the Revenue Authorities are directed not to restrict the use of 'C' Forms for the inter-state purchases of six commodities by the respondent/assessees and other registered dealers at concessional rate of tax and they are further directed to permit online downloading of such declaration in 'C' Forms to such dealers. The Circular letter of the Commissioner dated 31.05.2018 stands quashed and set aside along with the consequential notices and proceedings initiated against all the assessees throughout the State of Tamil Nadu.”

4.Since as on date, the order made in the writ appeal is final, the writ petition has to be necessarily allowed. It is accordingly allowed. The petitioner is entitled to the inclusion of 'High Speed Diesel Oil' as a commodity in the registration certificate. Let this exercise be carried out within a period of four (4) weeks from the date of uploading of this order. The request of the petitioner for issuance of 'C' Forms is allowed as a consequence thereof. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Assistant Commissioner (ST),
Chokkikulam Assessment Circle,
Commercial Taxes Building,
Madurai-20.

2.The Commissioner of State Taxes,
Ezhilagam, Chepauk, Chennai.

+1 CC to M/s.S.KARUNAKAR, Advocate ( SR-214[F] dated 06/01/2021 )

+1 CC to M/s.SPL GP ( SR-290[F] dated 06/01/2021 )

W.P.(MD)No.19800 of 2020
05.01.2021

CK(CO)
KB(22.01.2021) 3P 5C